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**TITLE 329 SOLID WASTE MANAGEMENT DIVISION**

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**FIRST NOTICE OF COMMENT PERIOD**

LSA Document #14-111

**SOLID WASTE FACILITY OPERATOR CERTIFICATION PROGRAM****PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules at [329 IAC 12](#) concerning the solid waste facility operator certification program. IDEM seeks comment on the affected citations listed and any other provisions of Title 329 that may be affected by this rulemaking.

**CITATIONS AFFECTED:** [329 IAC 12](#).

**AUTHORITY:** [IC 13-14-8-1](#); [IC 13-14-8-2](#); [IC 13-14-8-7](#); [IC 13-15-2-1](#); [IC 13-15-10](#); [IC 13-19-3-1](#); [IC 13-19-3-2](#).

**SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING****Basic Purpose and Background**

The solid waste facility operator certification program is required under [IC 13-15-10](#). State law requires the board to adopt rules to establish standards for the training, examination, certification, and renewal certification of operators of solid waste land disposal facilities. In accordance with [IC 13-15-10-2](#), solid waste facilities that are required to have a certified operator cannot obtain or renew a permit to operate unless the facility is operated by an individual certified under this program. Through the program, IDEM is assured that solid waste facilities have a certified and trained operator on-site, and operators have the opportunity to stay current with industry conditions. Since the rules pertaining to the program were last modified, IDEM has received comments about the efficacy of the program and suggestions to improve the program.

In response to external comments and internal considerations, IDEM is proposing to make changes to the solid waste facility operation certification program rules in order to:

- offer more flexibility for the certification and recertification course content;
- provide additional training options for completing required courses;
- extend the period of time allowed between operator recertifications;
- clarify sections throughout the rule; and
- update the rule to adapt to changing conditions in the industry.

These changes will provide more flexibility for persons and entities that are required to comply with certified solid waste facility operator rules, and are intended to decrease the burden on regulated entities. If the time frame for recertification is extended, the cost to comply with the training requirements will go down, therefore reducing costs for regulated entities.

Persons and entities that will be affected by this rulemaking include current and future certified solid waste facility operators, solid waste management facilities, and institutions that provide the accredited tests and training courses for operator certification.

IDEM seeks comment on the affected citations listed, including suggestions for specific language, alternative ways to achieve the purpose of the rulemaking, and any other provisions of Title 329 that may be affected by this rulemaking.

**Alternatives to Be Considered Within the Rulemaking**

Alternative 1. Offer more flexibility for course content, extend the period of time allowed between operator recertification, clarify sections throughout the rule, and update the rule to current conditions in the industry.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? This alternative is not imposed by federal law and there is no comparable federal law. It is a "state-only" requirement under [IC 13-15-10](#).
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Alternative 2. Do not amend [329 IAC 12](#).

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? This alternative is not imposed by federal law and there is no comparable federal law. It is a "state-only" requirement.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

**Applicable Federal Law**

None.

**Potential Fiscal Impact**

Potential Fiscal Impact of Alternative 1. This alternative will have a minimal fiscal impact because it may, in fact, decrease costs to regulated entities if the time frame between recertification is increased.

Potential Fiscal Impact of Alternative 2. This alternative will not have a fiscal impact.

### **Small Business Assistance Information**

IDEM established a compliance and technical assistance program (CTAP) under [IC 13-28-3](#). The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with [IC 13-28-3](#) and [IC 13-28-5](#), there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at:

[www.in.gov/idem/ctap](http://www.in.gov/idem/ctap)

For purposes of [IC 4-22-2-28.1](#), small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Jessica Faust-Hamblin  
IDEM Small Business Regulatory Coordinator  
MC 60-04 IGCS W041  
402 West Washington Street  
Indianapolis, IN 46204-2251  
(317) 232-8172 or (800) 988-7901  
[ctap@idem.in.gov](mailto:ctap@idem.in.gov)

For purposes of [IC 4-22-2-28.1](#), the Small Business Ombudsman designated by [IC 5-28-17-5](#) is:

Jacob Schpok  
Indiana Small Business Development Center  
One North Capitol, Suite 600  
Indianapolis, IN 46204  
(317) 232-8805  
[ombudsman@osbe.in.gov](mailto:ombudsman@osbe.in.gov)

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in [IC 5-28-17-5](#), specifically [IC 5-28-17-5\(9\)](#), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

The Small Business Assistance Program Ombudsman is:

Steven N. Howell  
IDEM Small Business Assistance Program Ombudsman  
MC 50-01 IGCN 1301  
100 North Senate Avenue  
Indianapolis, IN 46204-2251  
(317) 232-8587 or (800) 451-6027  
[snhowell@idem.in.gov](mailto:snhowell@idem.in.gov)

### **Public Participation and Work Group Information**

An external work group will be established after this notice to discuss issues involved in this rulemaking. The work group will consist of IDEM staff and a cross-section of stakeholders.

If you wish to provide comments to the work group on the rulemaking, attend meetings, or have suggestions related to the work group process, please contact Dan Watts, Rules Development Branch, Office of Legal Counsel at (317) 234-5345 or (800) 451-6027 (in Indiana). Please provide your name, phone number, and email address, if applicable, where you can be contacted. The public is also encouraged to submit comments and questions to members of the work group who represent their particular interests in the rulemaking.

### **REQUEST FOR PUBLIC COMMENTS**

At this time, IDEM solicits the following:

- (1) The submission of alternative ways to achieve the purpose of the rule.
- (2) The submission of suggestions for the development of draft rule language.

Comments may be submitted in one of the following ways:

- (1) By mail or common carrier to the following address:  
LSA Document #14-111 Solid Waste Facility Operator Certification  
Dan Watts  
Rules Development Branch  
Office of Legal Counsel  
Indiana Department of Environmental Management  
Indiana Government Center North  
100 North Senate Avenue  
Mail Code 65-46

Indianapolis, IN 46204-2251

(2) By facsimile to (317) 233-5970. Please confirm the timely receipt of faxed comments by calling the Rules Development Branch at (317) 233-8903.

(3) By electronic mail to [dwatts1@idem.in.gov](mailto:dwatts1@idem.in.gov). To confirm timely delivery of submitted comments, please request a document receipt when sending the electronic mail. **PLEASE NOTE: Electronic mail comments will NOT be considered part of the official written comment period unless they are sent to the address indicated in this notice.**

(4) Hand delivered to the receptionist on duty at the thirteenth floor reception desk, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana.

Regardless of the delivery method used, in order to properly identify each comment with the rulemaking action it is intended to address, each comment document must clearly specify the LSA document number of the rulemaking.

#### COMMENT PERIOD DEADLINE

All comments must be postmarked, faxed, or time stamped not later than May 16, 2014. Hand-delivered comments must be delivered to the appropriate office by 4:45 p.m. on the above-listed deadline date. Additional information regarding this action may be obtained from Dan Watts, Rules Development Branch, Office of Legal Counsel (317) 234-5345 or (800) 451-6027 (in Indiana).

Nancy King, Chief  
Rules Development Branch  
Office of Legal Counsel

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